

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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NEILL SAMUELL,

Case No. 3:14-cv-00056-MMD-VPC

Plaintiff,

ORDER

v.

DOMINICK CIPRIANO, et al.,

Defendants.

This prison civil rights matter comes before the Court following upon plaintiff's filing of a notice of appeal (dkt. no. 10). Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies to the Court of Appeals that the appeal is not taken in good faith.

With deference to the final authority of the Court of Appeals in matters relating to its own jurisdiction, it does not appear that there is jurisdiction over the appeal because there has not been entry of a final judgment. The Court's April 30, 2014, order (dkt. no. 4) did not direct entry of final judgment. Nor did the order dismiss all claims. The order instead dismissed certain claims without prejudice and with an opportunity to amend. Such an order does not give rise to a final judgment and thus does not constitute an appealable final order. See, e.g., *Santoro v. CTC Foreclosures Services Corp.*, 193 F.3d 1106 (9th Cir. 1999). The invocation of appellate jurisdiction accordingly would appear to be frivolous, such that an appeal would be dismissed in the case of a non-indigent litigant.

It is therefore ordered, pursuant to 28 U.S.C. § 1915(a)(3), that the Court certifies to the Court of Appeals that the appeal is not taken in good faith.

1 It is further ordered, so that the certification herein shall be clearly marked on the
2 docket for review by the Court of Appeals, that the Clerk of this Court shall docket this
3 order on the docket sheet as an order that certifies to the Court of Appeals that the
4 appeal is not taken in good faith and shall forward same to the Ninth Circuit in a manner
5 consistent with the Clerk's current practice, in connection with No. 14-15967 in the
6 Court of Appeals.

7 DATED THIS 2nd day of June 2014.

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10 MIRANDA M. DU
11 UNITED STATES DISTRICT JUDGE

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